land v. *Westmoreland,* 92 Ga. 233. Or if in the hands of a bona fide holder of a forged or fraudulent deed. *Griffin* v. *Stamper,* 17 Ga. 108. Or if given by a married woman without a privy examination. *Ferguson* v. *Kennedy* (Tenn.) 14 Am. Dec. 761. But the cases seem quite generally agreed, however, that a deed will give color of title even if not acknowledged or defectively acknowledged. *Cramer* v. *Clow,* 81 Ia. 255; *Dalton* v. *Bank of St. Louis,* 54 Mo. 105; *Union Savings Bank* v. *Taber,* 13 R. I. 683.

EVIDENCE—ADMISSIONS IN PLEADINGS.—Defendant sought to claim the benefit of the reply of the plaintiff as an admission upon the record, which had later been amended by cutting out the allegation containing the admission. *Held,* the part removed from the pleading is out of the case and cannot be treated as an admission upon the record of the party pleading it. *Kersten* v. *Weichman et al.,* — 1908 —, — Wis. —, 114 N. W. Rep. 499.

This is in accord with the former Wisconsin case of *Folger* v. *Boyinton,* 67 Wis. 447; also *Leach* v. *Hill,* 97 Iowa 81; *Woodworth* v. *Thomson,* 44 Neb. 311. WIGMORE, EVIDENCE, § 1067, says, "the conceded rule is that the superseded pleadings when thus used must always be formally offered in evidence at the proper time, like all other matters of evidence." But see contra *Smith* v. *Pelott,* 18 N. Y. Supp. 301. [A former note (6 MICH. LAW REV. 509), upon this case was incorrect in neglecting to state that defendant sought to claim the benefit of an admission upon the record.]

EVIDENCE—BEST EVIDENCE.—The plaintiff's counsel, in cross-examining one of the defendant's witnesses for the purpose of discrediting the testimony of that witness, asked him the contents of a written report he had made, without producing the report and asking him whether he had written it or not. *Held,* that this was a violation of the best evidence rule, and should not have been permitted. *Savannah Electric Co.* v. *Crawford* (1908), — Ga. —, 60 S. E. Rep. 1056.

This is in accord with the rule laid down in the *Queen's Case,* 2 Brod. and Bing. 286; but the rule has since been changed in England by statute 17 and 18 Vict., c. 125, s. 24; St. 28 and 29 Vict., c. 18, s. 5. The rule in *The Queen's case* has been almost universally followed in the United States. The Vermont court has denied the operation of the rule in *Randolph* v. *Woodstock,* 35 Vt. 291, saying, "We fully recognize the rule, that the contents of any writing cannot be proved by parol, except when it be shown that the writing is lost or for some other reason cannot be produced. But here the question was wholly collateral; the whole inquiry was for the mere purpose of affecting the credit of the witness, and not to prove any fact in issue in the case."

EVIDENCE—WORKS ON HISTORY AS EVIDENCE.—Defendant, in proving title out of the plaintiff, introduced Williamson's History of Maine, Williamson's History of Belfast and Farrow's History of Islesboro, to show that a certain island was in the "Muscongus grant," now known as the "Waldo patent," which was made sometime before 1635 by "The Council of Plymouth in

Devon, England" to John Beauchamp and Thomas Leverett, and their heirs and assigns. *Held*, that these books were rightly admitted. *Lazell* v. *Boardman et al.* (1907), — Maine —, 69 Atl. Rep. 97.

Any approved public and general history is admissible to prove ancient facts of a public nature. *McKinnon* v. *Bliss*, 21 N. Y. 206; *Corn* v. *Alburger*, 1 Whart. 469; *Bogardus* v. *Trinity Church*, 4 Sandf. Ch. 675. Such facts will be judicially noticed where they affect the whole people. *Ashley* v. *Martin*, 50 Ala. 537; *Simmons* v. *Trumbo*, 9 W. Va. 358. It has been held that county histories are not admissible. *Evans* v. *Getting*, 6 C. & P. 586; *McKinnon* v. *Bliss*, supra. In *McKinnon* v. *Bliss*, the court said, "History is only admissible to prove history, that is, such facts as being matters of interest to a whole people, are usually incorporated in a general history of the state or nation." See also 1 GREENL; EVIDENCE, § 497.

EXTORTION—INDICTMENT—SUFFICIENCY.—The defendant was indicted for extortion. It appeared that certain persons were the proprietors of a restaurant in which intoxicating liquors were sold. To keep such a restaurant, a license had to be obtained from the Board of Police Commissioners. The indictment alleged that the defendant threatened that the proprietors would lose their license unless he was paid certain sums of money. *Held*, that the indictment did not charge any offense under the laws of California. *People* v. *Schmitz* (1908), — Cal. —, 94 Pac. Rep. 419, 407.

Under the laws of California, so far as is material to the principal case, to commit extortion one must obtain property from another with his consent under threats of doing unlawful injury to his property. See PENAL CODE, §§ 518, 519. It is argued that the defendant would have had a right by fair persuasion to have caused the license to be revoked. Hence there was no *"unlawful injury"* threatened. It was not alleged that the defendant threatened to use any means beyond fair persuasion. This distinguishes the principal case from *People* v. *Hughes*, 137 N. Y. 29, 32 N. E. 1105. But see *People* v. *Baronness*, 133 N. Y. 649, 31 N. E. 240. The question resolves itself into the much mooted one as to whether malice will render an otherwise lawful act unlawful. It is contended that California has answered the question in the negative. *Boyson* v. *Thorn*, 98 Cal. 578, 33 Pac. 492, 21 L. R. A. 233. See also *Raycroft* v. *Tayntor*, 68 Vt. 219, 35 Atl. 53, 54 Am. St. Rep. 882, 33 L. R. A. 225; *Phelps* v. *Nowlen*, 72 N. Y. 39; *Chambers & Marshall* v. *Baldwin*, 91 Ky. 121, 34 Am. St. Rep. 165; COOLEY ON TORTS, 3rd ed. Vol. 2, pp. 1503, 1505-9. 1 CYC. 651. But on the other hand, see *Chesley* v. *King*, 74 Me. 164; *Keeble* v. *Hickeringill*, 11 East 574. See also *dicta* in *Roath* v. *Driscoll*, 20 Conn. 532; *Swett* v. *Cutts*, 50 N. H. 439. See AMES, CASES ON TORTS, Vol. 1, p. 750. For a general discussion of the question, see 8 HARV. LAW REV., pp. 1-14. See also 1 MICH. LAW REV., 28.

IMPRISONMENT FOR DEBT—SOLITARY CONFINEMENT.—This was a writ of certiorari to review the decision of the Allegan County Circuit Court in dismissing a petition for mandamus. Relator was held by respondent sheriff